

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Case No. 5:22-cr-00251-M-KS-4

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH PLUMMER,

Defendant.

ORDER

This matter comes before the court on Defendant's pro se motion. [DE 297]. Defendant advises that he has "found grounds of ineffective counsel" and seeks a 60-day extension in which to file a motion pursuant to 28 U.S.C. § 2255. *Id.*

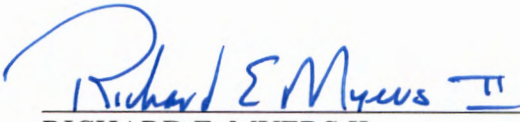
The court lacks jurisdiction to consider a motion for extension of time to file a § 2255 petition. *See United States v. Harris*, 304 Fed. Appx. 223, at \*1 (4th Cir. 2008); *United States v. White*, 257 Fed. Appx. 608, at \*1 (4th Cir. 2007). Nevertheless, it may recharacterize such a motion as a proper § 2255 petition "in the limited instance where the motion for extension of time contains allegations sufficient to support a claim under section 2255." *Johnson v. United States*, No. 5:10-cv-114, 2010 WL 4026086, at \*2 (E.D.N.C. October 13, 2010).

Here, Defendant has alleged that he suffered from ineffective assistance of counsel. [DE 297]. Accordingly, pursuant to *Castro v. United States*, 540 U.S. 375 (2003), the court provides Defendant with notice that it intends on recharacterizing his pro se motion as a proper § 2255 petition. The court warns Defendant that any subsequent § 2255 petitions "will be subject to the restrictions on second or successive motions." *Castro*, 540 U.S. at 383. Defendant may **amend** or **withdraw** his motion to include all claims and information he believes to be relevant. If,

however, he withdraws his petition, he will continue to be subject to the one-year statute of limitations that expires (the provisions of § 2255(f)(2)–(4) notwithstanding) on March 14, 2025.

The court permits Defendant to file a response to the court's proposed recharacterization on or before April 11, 2025. The court advises Defendant that if, within the above-described deadline, he does not oppose the proposed recharacterization, the court will treat this motion as a § 2255 petition.

SO ORDERED this 11<sup>th</sup> day of March, 2025.

  
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RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE